IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3910 OF 2005

Ananta Dunda Suroshi. ... Applicant

Versus.

The State of Maharashtra. ... Respondent.

Shri R.D.Suryawanshi for the Applicant.

Ms.R.M.Gadhvi, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 4th July, 2005.

P.C.:

1. Heard the learned Counsel for the parties. The application for anticipatory bail made by the Applicant has been rejected by the Additional Sessions Judge, Kalyan. Recently there has been a public out-cry as regards the disruption of supply of electricity by the Maharashtra State Electricity Board (hereinafter referred to "MSEB") for various reasons including load shedding. There are number of incidents of protests against the MSEB in different parts of the State as a result of disruption of power supply. It appears that the Applicant who claims to a political leader also made an attempt to protest as a result of which the alleged offence has been committed.

2. The case of the prosecution is that the offence took place in the office of the MSEB which is located at village Goveli, Taluka Kalyan, Dist. Thane. The Applicant and co-accused R.V.Suroshe visited the office

of the MESB on 8th June 2005 at 16.45 hours. They enquired with the employees of MSEB as to why the supply has been disrupted. The Complainant Shri Sanjay Gaikwad who is an employee of the MSEB stated that the supply will be resumed after one hour. The allegation is that the Applicant and co-accused got enraged because of the answer and they went out of the office and came back with gunny bag and grass and kept the same below a wooden table in the office and by a match stick put the grass on fire as a result of which certain documents and furniture in the office of the MSEB was burned. The co-accused was arrested. The Police Custody remand was sought by the prosecution of the co-accused interalia on the ground that the prosecution was desirous of recovering the match box used in the offence and was further desirous of ascertaining whether there was any pre-hatched conspiracy involved in the matter. It is not in dispute that co-accused has been enlarged on bail by the Additional Sessions Judge by order dated 28th June 2005.

2. The Applicant is seeking anticipatory bail on merits as well as on the ground that the Applicant is suffering from heart ailment and he has placed on record certain papers pertaining to medical treatment.

3. The learned Counsel for the Applicant submitted that considering the nature of offence custodial interrogation is not required. He pointed out that the

co-accused has been already enlarged on bail. The learned A.P.P. opposed the application by relying upon the decision of the Apex Court in the case of Bharat Chaudhary v/s. State of Bihar, reported in (2003) SCC (Cri.) page 1953 and submitted that considering the gravity of the offence and need for custodial interrogation, bail cannot be granted to the Applicant.

4. I have considered the rival submissions. When a query was made by me, the learned A.P.P. on instructions of the Officer who was present on the last date stated that the premises in which the offence is alleged to have occurred are the office premises of the MSEB and there was no transformer or other equipment in the said office premises save and except some electrical equipments which are normally provided in the offices.

5. From the F.I.R. it appears that the offence has been committed by the Applicant and the co-accused as they got enraged due the reply given by the employees of the MSEB that the supply will be resumed after one hour. As pointed out earlier, remand of the co-accused in the Police custody was sought mainly on the ground that match box used in the offence was to be recovered. Now the co-accused has been enlarged on bail by the learned Addl.District Judge.

6. Considering all the aforesaid factors it is difficult to hold that the custodial interrogation of

the Applicant is necessary. In my view the Applicant deserves to be enlarged on anticipatory bail in the peculiar facts and circumstances of the case.

7. In the circumstances, the following order is passed:

(i) In the event of the arrest of the Applicant in connection with C.R.No. I-79/2005 of Kalyan Taluka Police Station, Dist.Thane, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.15,000/- with two local sureties in like amount.

(ii) The Bail is granted subject to condition that till charge-sheet is filed the Applicant will attend the concerned Police Station every day between 10 a.m. and 12.00 noon.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/ Investigating Agency. The Applicant shall

not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is dispose of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.